



### E17 Recent Developments in the Judicial Investigation of Sudden, Unexpected and Unnatural Death in England & Wales

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After attending this presentation delegates will have an enhanced understanding of recent and proposed changes in the law relating to the judicial investigation of unnatural death in England and Wales and the reasons for those changes.

This presentation will impact the forensic community by demonstrating to North American lawyers who may have to advise clients whose relatives have died in England and Wales and to forensic scientists and pathologists who have to work with English colleagues in investigating a single or multiple deaths. It will also be of interest to all those who would seek an illustration of Bismarck's aphorism: "Laws are like sausages, it is better not to see them being made".

Major changes in training are being implemented in the way in which sudden unexpected death is investigated in England and in which natural death is certified and registered prior to disposal of the body. These changes have had two main drivers; a number of scandals in relation to the retention of body parts after postmortem without the proper consent of the relatives and the ability of Dr. Harold Shipman to murder between about 220 to 240 of his patients without detection.

The UK Parliament passed the Human Tissue Act into law in 2004. Although it makes major changes in the law relating to the collection of tissue at postmortem and its retention as well as in relation a number of other areas such as the non consensual collection of samples for DNA profiling, backed up by significant – even draconian – criminal sanctions, it does not address a number of areas of concern to forensic practitioners. Indeed, on a black letter reading of the act it can be argued that it makes unlawful the retention of human tissue at a judicially ordered autopsy for purposes of a criminal investigation or for national security purposes when those purposes go beyond the limited jurisdiction of the coroner. All the coroner can do is retain tissue for a limited time to establish who the deceased was and the means by which they came to their death. Further, the act does not contemplate the retention of tissue, even with consent by relatives, for forensic research as opposed to medical research. The act, which was steered through Parliament by the Secretary of State for Health cannot be regarded as a triumph of "joined up government."

The UK Government has promised further legislation to reform the Coroners' system which, arguably, has not changed fundamentally since the Articles of Eyre in 1194. The same legislation will introduce a new system of death certification, the details of which have yet to be announced. However, it is widely expected that a system of independent of medical review of all deaths will be introduced. Whilst the hope that this can be funded by the savings produced by a reduction in the number of post-mortem examinations that a medical chart review of each has been expressed, the available data suggests this may be optimistic. At the time of writing, the draft bill to revise the English coronial and death registration systems has not been published. A White Paper was expected before the General Election in May 2005, but did not materialize. However, a government minister has assured that the government remains committed to reform of the coronial and death certification system. Draft legislation is expected "real soon now." It is very unlikely that it will not be published before AAFS 2006 and the author anticipates being able to review it in this presentation.

The Human Rights Act 1998 made the European Convention on Human Rights (ECHR) part of English law. All English law now has to be compliant with ECHR and this has left English lawyers having to grapple with the alien concept of what is in effect a written constitution with a gloss provided by the judgments of the European Court of Human Rights in Strasbourg. The significant effect this has had on English coronial law will also be reviewed.

#### Coronial Law Reform, Death Certification, Parliamentary Processes